



Durham Board of Adjustment

M I N U T E S

August 25, 2009 ■ 8:30 a.m.

Committee Room, 2nd Floor, City Hall

Members Present: Lynn Andrews
Furney Brown
Daniel Edwards, Vice Chair
Angie Elkins, Alternate
George Kolasa
David Neill
Rebecca Winders

Members Absent: Henry Blinder
Spurgeon Thurston

Staff Present: Susan Willard, Acting Clerk
Emanuel McGirt, Senior Assistant City Attorney
Steve Medlin, Planning Director
Scott Whiteman, Planning Supervisor
Pat Young, Assistant Planning Director

Guests Present:	Craigie Sanders	David Preston
	Gregory Christon	Mary Christon
	David Preston	I. Jarvis Martin
	Dan Jewell	Donald Parham
	Bellanira Cordero	Ray Andrews

Mr. Edwards read the following:

This Board is a quasi-judicial Board of record and as such, all testimony will be recorded. The proceedings of this Board will be governed by the zoning laws, as recorded.

Are there any members of this Board that would have any conflicts of interest with regard to the cases that are before us today and are there any early dismissals being requested?

Summary Minutes

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As Chair of the Board of Adjustment, I'd like to explain the procedures used for Board hearings. The hearings are quasi-judicial. The process is similar to a court proceeding. First, the staff will present an overview of the case then the applicant presents its evidence. The opponents, if there are any, will then present their evidence. The applicant may then present its rebuttal. Board members are asked to refrain from questions until each speaker has completed his or her presentation. All testimony is given under oath. In a few moments, I will give the oath to all witnesses as a group. All witnesses are asked to sign the roster at the podium if you have not done so.

Testimony should consist of facts each witness knows directly, not hearsay. All witnesses should come to the podium and speak directly into the microphone so their testimony can be recorded on tape.

Written evidence must be presented to the Chair and a determination will be made about whether it should be accepted. Written evidence can be inspected by the other side. All evidence, written or oral, can be objected to.

Witnesses are subject to cross-examination. Opposing representatives will have a chance to question witnesses after all witnesses for the other side have testified. If you wish to cross-examine, you must raise your hand when I ask for other speakers in favor or against the application and I will recognize you. I would like to note that Board members may have visited each site under consideration as a part of their preparation for this meeting.

The Board will vote on each case after the presentation of all evidence, pro and con, concerning the case. The law requires that in order for an applicant's request to be granted 5 of the 7 voting Board members must approve the request.

All decisions of this Board are subject to appeal to the Durham County Superior Court. Any one in the audience, other than the applicant, who wish to receive a copy of the formal order issued by this Board on a particular case, must submit a written request for a copy of the order at this hearing. Forms for this purpose are available from the Planning staff.

Hearing and Determination of Cases

After the oath was given, Mr. Whiteman asked that all staff reports and materials submitted at the meeting be made part of the permanent record with any additions, deletions, and or corrections that may be necessary. All Board members concurred.

SEATED: Ms. Andrews, Mr. Brown, Mr. Edwards, Ms. Elkins, Mr. Kolasa, Mr. Neill, Ms. Winders

Greg's Classic Cars (Case B0800022) – City - A request by Gregory Christon for a minor special use permit to change a nonconforming use from light industrial to car sales and service as per Sections 3.9, 5.3.4S, T and 14.2.2 of the Unified Development Ordinance. The property is located at 4809 Hillsborough Road and zoned OI.

Staff Presentation was made by: Scott Whiteman

Persons Appearing in Support: Craigie Sanders, Gregory Christon, Mary Christon, David Preston, Jarvis Martin, Dan Jewell, Gerald Parham

Persons Appearing in Opposition: None

Staff
Recommendation: Approval

Motion: Ms. Andrews made a motion to grant the request as submitted based on findings of fact by the Board that the governing Ordinance requirements have been met.

Conditions:

1. The proposed car sales and service use and other associated improvements shall be substantially consistent with the site plan submitted to the Board as part of the application.
2. Hours of operation are to be Monday through Friday, 7:30 a.m. to 6:30 p.m.
3. Auto repairs are prohibited.
4. All cars must be maintained within the storage area.
5. Sales and services permitted for special and/or classic cars only.

Seconded By: Ms. Elkins

Vote: 7 to 0

Action: Approval

SEATED: Ms. Andrews, Mr. Brown, Mr. Edwards, Ms. Elkins, Mr. Kolasa, Mr. Neill, Ms. Winders

El Fenixx Nightclub (Case B0900024) – County – A request by Bellanira Cordero for a minor special use permit to expand a nightclub within the Oaks Crossing Shopping Center, as per Sections 3.9 and 5.3.4O of the Unified Development Ordinance. The property is located at 3805 Wake Forest Highway and zoned, CN; F/J-B.

Staff Presentation was made by: Scott Whiteman

Persons Appearing in Support: Bellanira Cordero, Ray Andrews

Persons Appearing in Opposition: None

Staff

Recommendation: None

Motion: Mr. Neill made a motion to continue this case to the September 22 Board meeting to get answers to the following questions:

- a. Detailed drawing representing proposed operating/floor plan of current and new (if approved as requested) facility, including all dimensions; and
- b. Proposed operating hours and any known conflicts with Oak Grove Elementary (and associated groups such as PTA) operations; and
- c. New (if approved as requested) and current capacities of the facility per the County Fire Marshal.

Seconded By: Mr. Kolasa

Vote: 7 to 0

Action: Approval

Approval of Summary Minutes for July 28, 2009

Mr. Kolasa made a motion, seconded by Ms. Elkins, to approve the summary minutes with the one noted correction. The motion passed unanimously.

Approval of Orders – carried to the September meeting.

Old Business

N/A

New Business

New officers were asked to be sworn in after this meeting.

Adjourn

The meeting adjourned at approximately 10:20 a.m.

Respectfully Submitted,

Susan Willard, Acting Clerk
Durham Board of Adjustment